

## REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 1 through 20 are pending, with Claims 1 and 10 being independent. Claims 1 through 5, 10 through 14, and 18 have been amended. The specification has been amended.

Transmitted herewith are three replacement sheets of formal drawings comprising Fig. 2, 28, and 31 to be substituted for the corresponding drawing sheets presently on file, wherein the arrowhead at the top of box 208 has been changed to a straight line. Favorable consideration and entry thereof is earnestly solicited.

The disclosure was objected to on the grounds that the image processing apparatus described at page 7, lines 24-26, is not shown in Fig. 3. All objections are respectfully traversed, and are submitted to have been obviated by the amendment of the specification at page 7, line 25, to change "embodiment" to --embodiment, illustrated in Fig. 2--. Furthermore, Applicant respectfully submits that the sentence in question does not state that Fig. 3 depicts image processing apparatus; instead, the sentence in question states that Fig. 3 shows performance of an operation.

The Official Action required that "FET" be changed to --FFT-- at page 22, line 25, and page 23, line 1. The specification has been amended as required.

The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Official Action asserts there is insufficient support for "adaptively switching" and a "plurality of encoding circuits (methods)" as recited in Claims 5 and 14. All objections and assertions are respectfully traversed. The objections and assertions are respectfully submitted by Applicant to have been obviated by the amendment of the claims to recite --adaptively selecting--. Applicant respectfully submits that said expression, and the "plurality of encoding circuits (methods)" find sufficient antecedent basis at, for example, page 29, line through page 30, line 26, which

describes, *inter alia*, that outputs of a plurality of audio encoding circuits of different encoding methods (e.g., AAC encoding unit 2902 and CELP encoding unit 2903) are selectively output (see, e.g., page 30, line 24, which refers to “selected”) from an encoded audio data output unit 2905 through an optimum encoded audio data determination unit 2904.

Claim 18 was objected to and the Official Action states that “apparatus” should read --method--. The claim has been amended as kindly suggested.

Claims 10 through 18 were rejected under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, as being indefinite. The Official Action states that a “setting step for setting said image (or audio data) encoding step to encode” is unclear. All rejections are respectfully traversed and are submitted to have been obviated by the amendment of Claim 10 to change “setting said image encoding step to encode” to --setting the encoding in said image encoding step to control-- and to change “setting said audio data encoding step to process” to --setting an audio encoding method in said audio data encoding step to increase--, which amendments are earnestly believed by Applicant to avoid the grounds of rejection. Furthermore, it is well-settled that breadth does not constitute indefiniteness.

Claims 1 through 20 were variously rejected under 35 U.S.C. §§ 102 and 103 over US 2001/0048770 A1 (Maeda), taken alone or in combination with JP-A 2001-230947 (“JP ‘947”). All rejections are respectfully traversed.

Claims 1 and 10 variously recite, *inter alia*, setting an audio encoding method to increase a bit amount of the audio data corresponding to (a) the scene exhibiting the high degree of significance in response to the setting by the image encoding setting means (Claim 1) or (b) the encoded image data in which the image quality is improved, in response to the setting in the image encoding setting step (Claim 10).

However, Applicant respectfully submits that neither Maeda nor JP ‘947, even in the proposed combination, assuming, *arguendo*, that the documents could be combined,

discloses or suggests at least the above-discussed claimed features as recited, *inter alia*, in Claims 1 and 10. It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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